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DISCUSSION

Upon entry of the present amendment, Claims 1-29 remain in the application, of which, claims 1, 5, 13, 20, 24 and 25 are independent. New claims 30 and 31 are added by the present amendment.

The above-identified Office Action has been reviewed, the references carefully considered, and the Examiner's comments carefully weighed. In view thereof, the present Amendment is submitted. It is contended that by the present amendment, all bases of rejection set forth in the Office Action have been traversed and overcome. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Applicant requests reconsideration and withdrawal of the rejection, for reasons which are outlined herein.

Section 112 Issues

At item 2 of the Office Action, the Examiner rejected claims 13-19 and 25-29 under 35 USC 112, second paragraph, as indefinite.

Helpful guidance regarding the requirements of 35 USC 112 can be found in the Manual of Patent Examining Procedure. MPEP 2173.02 states as follows, on the subject of the standard under the second paragraph of section 112:

The essential inquiry pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

In reviewing a claim for compliance with 35 U.S.C. 112, second paragraph, the examiner must consider the claim as a whole to determine whether the claim apprises one of ordinary skill in the art of its scope and, therefore, serves the notice function required by 35 U.S.C. 112, second paragraph. See, e.g., *Solomon v. Kimberly-Clark Corp.*, 216 F.3d 1372, 1379, 55 USPQ2d 1279, 1283 (Fed. Cir. 2000).

In the case of *Solomon v. Kimberly-Clark Corp.*, 55 U.S.P.Q.2d 1279 (CAFC 2000), the court stated:

The definiteness of the language employed must be analyzed - not in a vacuum, but always in light of the teachings of the prior art and of the particular application disclosure as it would be interpreted by one possessing the ordinary level of skill in the pertinent art....Determining whether a claim is definite requires an analysis of whether one skilled in the art would understand the bounds of the claim when read in light of the specification. If the claims read in light of the specification reasonably apprise those skilled in the art of the scope of the invention, § 112 demands no more.

(upholding validity of a claim which included the terms "relatively thick layer" and "substantially thinner layer")

Applicant has amended claims 13 and 25 such that the rejection under Section 112 is believed to be overcome. Further, regarding use of the phrase "high speed" in claims 13 and 25, applicant has amended the claim to insert the word "a" before this term. Applicant further asserts that this claim limitation is at least as definite as the terms which were before the court in *Solomon v. Kimberly-Clark*, above.

Claim 15 has been amended to change the term "said partitions" to read --said at least one partition--, in order to overcome the indefiniteness rejection.

Applicant respectfully submits that one skilled in the art would understand the bounds of claims 13, 15 and 25, as amended, when these claims are read in light of the specification, and that the claims, read in light of the specification, would reasonably apprise those skilled in the art of the scope of applicant's invention. Applicant therefore respectfully requests reconsideration and withdrawal of the Examiner's rejection of claims 13-19 and 25-29 under 35 USC 112, second paragraph.

Section 103 issues

1. At item 3 of the Office Action, the Examiner rejected claims 13-16, 19, and 25-26 under 35 USC 103(a) as unpatentable over JP 10-175,497 (hereinafter referred to as '497), in view of JP 10-338097 (hereinafter referred to as '097).

In the rejection, the Examiner states that it would have been obvious to modify '497, which teaches an acceleration sensor generating a signal when lateral acceleration is detected (¶s 20 and 32 of the English translation), and inflator 21 in addition to partitions 40 and an airbag that would be initially folded (Fig 3) to include the bag expanding in parallel to a linear expansion direction as taught by '097 (Fig 18), in order to deploy the bag from an alternative location.

Regarding claims 13 and 25, the Examiner states that partition(s) 40 determine the shape of the airbag during an expansion process by limiting how far laterally the sides can move away from each other, thereby facilitating the high speed expansion of the airbag to a final shape.

The Examiner further states that in Fig. 7 of '497, there are multiple circular portions in a limb portion (where the arm would be in Drawing 1) and, as seen in Drawing 5, the partitions 40 are formed by sewing portions of two side panels together (claims 14-17 and 26), and as noted above, the partitions formed by sewn together predetermined portions, determine an expansion direction of the air bag that is opposed to where the gas enters the airbag in the combination (claim 19).

Applicant's Response

Upon careful consideration and in light of the above amendments to the claims, including independent claims 1, 5, 20 and 24, applicant respectfully submits that the discussed rejections are overcome by the present amendment, and that present claims 13-16, 19, and 25-26 are clearly patentably distinct over the applied references because the references do not disclose or suggest the

total combination presented by the claimed invention.

Also, as previously argued, neither reference teaches providing an alternative location for deployment of the airbag, and applicant respectfully submits that the Examiner is using impermissible hindsight acquired from the applicant's disclosure to suggest modification of '497 as taught by '097. The '497 reference clearly teaches an airbag position on the seat back, and further clearly teaches an airbag having a thorax protecting portion, and a head protecting portion above the thorax protecting portion. Thus '497 does not teach a linear expansion direction, such that there is no motivation to modify '497 to have a linear expansion direction.

Applicant has further amended claims 13 and 25 herein to more clearly recite that the inflator is mounted in a side portion of the seat, and that the linear expansion direction is generally forward and upward from the side portion of the seat.

Based on the foregoing the rejections of claims 13-16, 19, and 25-26 under 35 USC 103(a) are believed to be overcome, and it is respectfully requested that the rejections be reconsidered and withdrawn.

2. At item 5 of the Office Action, the Examiner rejected claims 17-18 and 27-29 under 35 USC 103(a) as unpatentable over Sunabashiri et al (US 6,561,539) in view of '497 and '097.

In the rejection, the Examiner states that Sunabashiri discloses partitions 6, 8 that are substantially linear, shaped differently from each other (one is shorter), and are disposed non-symmetrically within the bag, and that in the Examiner's view, it would be obvious to modify Sunabashiri to include the bag made of two panels and the partitions made by sewing predetermined portions of the airbag together as taught by '497 in order to conventionally form the bag with two side panels and eliminate parts and material by making the partitions with sewn together side portions instead of separate cloth strips, and to include the bag expanding in a

linear expansion direction as taught by '097 in order to expand the bag from a different location.

Applicant's Response

Upon careful consideration and in light of the above amendments to the claims, including independent claims 13, and 25, applicant respectfully submits that the discussed rejections are overcome and that present claims 17-18 and 27-29 are clearly patentably distinct over the applied references because the references do not disclose or suggest features of the claimed invention.

Applicant respectfully submits that to modify Sunabashiri to form partitions by sewing predetermined portions of the panels together as taught by '497 would eliminate the stated function of partitioning wall cloth 6 of determining the dimension of expansion in the left-right directions of the airbag, since a partition formed by sewing would provide a zero width at the seam, while partitioning cloth 6 (as well as width restricting cloth 8) is clearly formed having a (positive) width dimension. Moreover, sewing the side panels together would eliminate the ability to form vent 7 within the partitioning wall cloth 6, the vent 7 used by Sunabashiri to introduce gas G into the head protecting portion of the airbag.

As specifically regards claims 18 and 28, applicant respectfully submits that although Sunabashiri discloses predetermined portions of different sizes, Sunabashiri does not disclose predetermined portions which are shaped differently from each other. Each predetermined portion of Sunabashiri has the same shape, albeit of different scale.

As regards claims 17 and 27, independent claims 13 and 25, of which claims 17 and 27 respectively depend, have been amended to more particularly point out and distinctly claim subject matter which applicant regards as the invention.

Based on the foregoing the rejections of claims 17-18 and 27-29 under 35 USC 103(a) are believed to be overcome, and it is respectfully requested that the rejections be reconsidered

and withdrawn.

New Claims

Applicant introduces new claims 30 and 31 by the present amendment. New claim 30 depends from claim 13, and adds the limitation that the final shape of said air bag forms an outline including a proximal end adjacent the inflator and having a first width, a medial portion having a second width that is greater than the first width, and a distal end opposite the proximal end and having a third width which is less than the second width. New claim 31 depends from claim 25, and adds the same shape limitation as claim 30.

This claim limitation regarding the final shape of the air bag is not taught, suggested, nor rendered obvious by any prior art known to applicant. New claims 30-31 do not introduce any new matter into the application, because they are fully supported by the original specification including the drawings. The shape of the airbag claimed in applicant's claims 30 and 31 provides an advantage because it assists in protecting an occupant of the vehicle upon deployment.

Conclusion

Applicant respectfully suggests that none of the references of record, considered either singly or in any combination, teach applicant's invention, as presently claimed, and that further, skill generally available in the art would not lead to a person of ordinary skill to create applicant's claimed invention, using the references of record.

Applicant respectfully suggests that as currently amended, all of the pending claims are believed to be allowable.

No new matter has been added by the present amendment, since all of the pertinent subject matter was expressly or inherently disclosed in the original application.

For all of the above mentioned reasons, applicant requests reconsideration and withdrawal of the rejection of record, and allowance of all the pending claims.

If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that the Examiner telephone applicant's undersigned representative to resolve any additional issues and expedite prosecution of the application.

The Commissioner is hereby authorized to charge \$100.00 for two dependent claims in excess of twenty, to charge any deficiency which may be required, and to credit any excess paid to Deposit Account 50-0744 in the name of Carrier, Blackman & Associates, P.C. A duplicate copy of this sheet is enclosed.

Favorable reconsideration is respectfully requested.

Respectfully submitted,



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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being transmitted, via facsimile, to Examining Group 3616 of the United States Patent and Trademark Office on July 27, 2005, at the number (571) 273-8300.



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